

# The Gazette of India

EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

---

No. 341] NEW DELHI, FRIDAY, NOVEMBER 18, 1955

---

ELECTION COMMISSION, INDIA

NOTIFICATION

*New Delhi, the 11th November 1955.*

**S.R.O. 3513.**—In continuation of the Election Commission's notification No. 19/214/52-Elec. dated the 5th February, 1953, published in the Gazette of India Extraordinary, Part II—Section 3, dated the 5th February, 1953, under section 106 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby published the judgment of the Supreme Court of India dated the 12th October, 1955 on the appeal filed before this Court by Shri Attar Singh son of Shri Lok Ram, Caste Jat of Village Mandhi Harya, P.O. Badhra, Tehsil Dalmia Dadri, District Mohindergarh, Pepsu, in election petition No. 214 of 1952.

IN THE SUPREME COURT OF INDIA

CIVIL APPEAL NO. 131 OF 1955.

**Arrar Singh Vs. Lahri Singh and others.**

The appellant before us was a candidate for election to the Pepsu Legislative Assembly from the Badhra-Satnali constituency. Respondent No. 1 before us was also a candidate. The appellant secured 3019 votes and respondent No. 1 secured 2119 votes at the election. The result of the election was notified in the Pepsu Gazette on 6-2-52. Respondent No. 1 filed an election petition on 28-4-52, to set aside the election of the appellant on various grounds, one of which was that the appellant had obtained in his interest the assistance of Government servants. Particulars of this allegation were given by the appellant in the list marked 'C' which is annexed to the petition and, so far as relevant for the decision of this question, are as under:—

"Respondent No. 1 procured the assistance of Jamedar Chajee Ram son of Sheelal Jat of village Mandhi Hurria to influence unduly the voters in this constituency. He applied his assistance in influencing the voters by virtue of his official position in Indian Army Service as a Junior Commissioned Officer, and as well as a Nambardar in his own village, a part of this constituency. He (respondent No. 1) even unduly influenced and utilised his (J.C.O.'s) help in inducing the voters to cast their votes in favour of Respondent No. 1 by appointing him (J.C.O.) as his (respondent No. 1) polling agent at polling station No. 7 (Nandha) on 10th and 11th January 1952. The above Jamedar is still serving in the 7th Light Cavalry of Indian Army and was on leave during the polling days of this constituency".

The Election Tribunal decided all the issues relating to alleged malpractices of the appellant raised before it in his favour except issue No. 1(c), which related to his obtaining in his interest assistance of a Government servant and held that it was proved beyond doubt that Chajee Ram, as a Government servant, did act as a polling agent at Nandha and that this amounted to corrupt practice under clause 8 of S.123 of the Representation of the People Act. Issue 1(d), which had been raised before the Tribunal, was as under:—

“Was the election of respondent No. 1 procured or was the result of the election materially affected by any corrupt or illegal practice and is the election of respondent No. 1 liable to be declared void?”

On that issue, the Election Tribunal held that in view of the commission of the corrupt practice which was the subject-matter of issue No. 1(c), the election of the appellant was liable to be declared void without the necessity of finding whether the result of the election was thereby materially affected or not. Having regard to that finding, the Election Tribunal declared the election of the appellant from the Bhadra-Satnali constituency to be void. In addition to this declaration, the Election Tribunal also recorded a finding under S. 99(1)(a)(i) that the corrupt practice of obtaining assistance of Government servant falling under clause 8 of S.123 was proved to have been committed by the appellant and the appellant had incurred the disqualification under S.140 of the Representation of the People Act. In the result, the appellant was unseated and was also declared to have been disqualified under S.140 of the said Act.

The appellant obtained leave to appeal to this Court and his appeal is now before us.

It may be noted that the only finding in regard to the corrupt practice against the appellant was that Chajee Ram, a Government servant, was appointed as polling agent by him and that he acted as such at Nandha polling station. The Election Tribunal did not record its finding on the other allegations contained in the particulars, ‘C’ to the petition, and its finding to the effect that the appellant had appointed Chajee Ram as his polling agent was considered sufficient to enable it to declare his election void.

It appears that when the Election Tribunal pronounced its decision it had not the benefit of the judgment of this Court which was subsequently pronounced in *Satya Dev Bushahri Vs. Padam Chand* reported in 1955 S.C.R. at page 549. This Court held that as an abstract proposition of law, the mere appointment of a Government servant as a polling agent was not in itself an infringement of S. 123(8) of the Representation of the People Act. If there was anything more than the mere appointment of a Government servant as a polling agent, that would have been sufficient to arrive at a finding of corrupt practice against the appellant. As the record stands, however, we have merely the finding by the Election Tribunal that Chajee Ram had been appointed as a polling agent and that he did act as such at Nandha polling station and there is no further finding that any of the other charges included in the particular ‘C’ to the petition in relation to Jamedar Chajee Ram were proved against the appellant. We have, therefore, before us the mere appointment of Chajee Ram as a polling agent and this would not be enough to record a finding of corrupt practice under S.123(8) against the appellant.

We are, therefore, of the opinion that the Election Tribunal was wrong in coming to the conclusion merely on this finding that the appellant was guilty of corrupt practice mentioned in S.123(8) of the Representation of the People Act.

We are informed that this decision of ours reversing the finding of the Election Tribunal has now become merely academical because there is no question of the appellant being restored to his former position as an elected member of the Pepsu Legislative Assembly. The importance of this decision only lies in this that the disqualification which has been entailed upon the appellant under S.140(2) would be removed.

The appeal will, therefore, be allowed. The finding of corrupt practice under S.123(8) of the Representation of the People Act recorded against the appellant by the Election Tribunal will be reversed as also the order under

S.99(1)(a)(i) entailing upon the appellant the disqualification under S.140(2) of the Representation of the People Act.

There will be no order as to the costs of this Appeal.

(Sd.) N. H. BHAGWATI. J.

(Sd.) T. L. VENKATARAMA AIYAR. J.

(Sd.) BHUVNASHWAR P. SINGH. J.

*Dated: 12th October, 1955.*

[No. 19/ 214/52-Elec. III/13111.]

By Order,

P. S. SUBRAMANIAN,

SECRETARY TO THE ELECTION COMMISSION.

